



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1995

Ms. Tracy B. Calabrese
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR95-1190

Dear Ms. Calabrese:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 33976.

The City of Houston (the "city") received an open records request for any and all information generated by the police department and the fire department's arson investigation unit concerning the investigation and arrest of Mr. Anthony Gordon. You state that the police department has no responsive documents. However, the fire department's arson investigation unit has developed a file regarding the facts and circumstances surrounding Gordon's arrest.

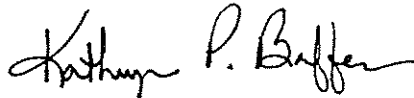
You contend that section 552.103 of the Government Code excepts the requested information from required public disclosure. You have submitted for our review the city fire department's arson squad's investigative report of the incident which resulted in Gordon's arrest. You also submit for our review an affidavit from an assistant district attorney of Harris County who avers that the requested arson squad report is related to a pending lawsuit and should not be made public.

To secure the protection of section 552.103(a), a governmental body must demonstrate that the requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 588 (1991). In this instance, you have made the requisite showing that the records submitted relate to pending litigation for purposes of section 552.103(a).

The remaining information, except for that seen by or otherwise made available to the opposing parties in the litigation, may be withheld pursuant to section 552.103(a).¹ Open Records Decision Nos. 349 (1982), 320 (1982). Thus, information that typically appears on the first page of an offense report will have been disclosed to a criminal defendant when he or she is charged and may not be withheld under section 552.103(a). See Open Records Decision No. 597 (1991) at 3. We note that the content of information rather than its location determines whether information must be released under *Houston Chronicle Publishing Co.* Open Records Decision No. 127 (1976) at 5. In addition, the applicability of section 552.103(a) ends once the litigation is concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes
Assistant Attorney General
Open Records Division

KPB/ch

Ref: ID# 33976

Enclosures: Submitted documents

cc: Ms. Janet Giessel Townsley
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(w/o enclosures)

¹In so ruling, we assume that information that is public under *Houston Chronicle Publishing Co.* does not appear in court records. See *Star Telegram v. Walker*, 836 S.W.2d 54 (Tex. 1992) (no privacy interest in information found in public court documents).